

NOT FOR PUBLICATION

OCT 01 2003

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIAN LOPEZ-LICON, aka Julian Lopez
Lincon, Juan Garcia, Julian Ochoa-Lopez,

Defendant - Appellant.

No. 02-10544

D.C. No. CR-02-00574-EHC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Earl H. Carroll, District Judge, Presiding

Submitted September 12, 2003**
Pasadena, California

Before: KLEINFELD, WARDLAW, and W. FLETCHER, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Julian Lopez-Licon appeals the denial of his Motion to Dismiss the indictment for attempted reentry under 8 U.S.C. § 1326(a). We affirm.

Sneaking under the fence, walking north two or three blocks, and hiding behind a bush from the Border Patrol sufficed for an “attempted reentry” conviction, even if continual surveillance amounting to official restraint might have prevented an “entering” or “being found in” conviction. United States v. Leos-Maldonado, 302 F.3d 1061, 1063 (9th Cir. 2002), controls.

AFFIRMED.